

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[FRL -]

Docket No A-95-38

Notice of Availability of Additional Information Related to
Proposed Regional Haze Regulations; Solicitation of Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: On July 31, 1997, EPA published proposed revisions to State implementation plan (SIP) requirements to address regional haze visibility impairment in the Nation's most treasured national parks and wilderness areas. The public comment period on those regulations closed on December 5, 1997. The purpose of this notice is to provide the public with an opportunity to comment on two specific issues for which additional information became available after the close of the comment period. The EPA is not reopening the comment period for any other issues related to the proposed regional haze rule.

The first issue relates to the Grand Canyon Visibility Transport Commission (Commission) and specific recommendations provided in a recent letter from the Western Governors' Association (WGA). The second issue relates to recent transportation legislation, Pub. L. 105-178, the

Transportation Equity Act for the 21st Century (TEA-21), which affects the timeframe for implementation of the regional haze program.

DATES: Written comments must be received by [30 days from date of publication of this notice]. The EPA is making this information available for comment now so that any public comments on these two issues may be considered before publication of the final rule.

ADDRESSES: Information related to the proposed regional haze rule is available in EPA's Air and Radiation Docket and Information Center, docket number A-95-38. The docket is located at the following address: EPA Air and Radiation Docket and Information Center; 401 M Street S.W.; Room M-1500 (Mail Code 6102); Washington, DC 20460; Attention: Docket Number A-95-38. The docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday. A reasonable fee may be charged for copying.

Three additional items related to this notice of availability can be obtained from docket number A-95-38: the June 29, 1998 letter from the WGA (signed by Governor Michael Leavitt of Utah) (item VIII-G-76), the draft translation of the WGA's recommendations into regulatory language by EPA (item VIII-I-02), and a copy of the TEA-21 legislation provisions affecting the regional haze program

(item VIII-I-01). The above documents may also be downloaded from the Internet at:

<http://www.epa.gov/ttn/oarpg/tlsn.html>.

Comments on today's notice and the materials referenced herein should be submitted (in duplicate if possible) to the address listed above. Comments may also be submitted to EPA by electronic mail at the following address:

A-and-R-Docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data also will be accepted on computer disk in WordPerfect 5.1 format or ASCII file format. All comments and data in electronic form must be identified by the docket number A-95-38. Electronic comments on this notice also may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: Rich Damberg (telephone 919-541-5592), Mail Drop 15, EPA, Air Quality Strategies and Standards Division, Research Triangle Park, North Carolina, 27711. Internet address: damberg.rich@epa.gov.

SUPPLEMENTARY INFORMATION: We are providing the public with the opportunity to comment on additional information related to the regional haze rule proposed on July 31, 1997. We are requesting comment only on these two issues, and we are not reopening the comment period on any other issues related to the proposal.

I. Letter from the Western Governors' Association.

In the notice of proposed rulemaking for the regional haze program, we discussed extensively the June 1996 report from the Grand Canyon Visibility Transport Commission, Recommendations for Improving Western Vistas, 62 FR 41138, 41141-41143 (July 31, 1997). The EPA highlighted the key recommendations developed by the Commission in a number of areas, including those recommendations regarding stationary sources, mobile sources, and prescribed fire. In concluding this section of the notice we stated that EPA ". . . seeks public comment on the manner it has proposed to address the Commission's recommendations in this rulemaking, and EPA requests alternative suggestions for addressing the recommendations." (62 FR 41143).

On June 29, 1998, we received a letter from Governor Leavitt of Utah, on behalf of the WGA, that specifically addresses how EPA should treat the Commission's recommendations within the national rule. The WGA developed the letter in conjunction with several stakeholders involved in the Commission. The EPA was not a part of this process. In his cover letter, Governor Leavitt specifically requested that EPA reopen the public comment period for 30 days.

A key element of the WGA's recommendations is the proposal that if the States in the Commission's transport

region provide an acceptable "Annex" to EPA in 2000 outlining interim milestones for regional SO₂ reductions, then SIPs meeting the overall package of recommended elements would assure reasonable progress and meet the basic SIP requirements set forth under section 169A of the Clean Air Act (CAA) (including a long-term strategy, best available retrofit technology, and other measures as necessary). Given the detailed nature of these new comments, and the fact that they were developed with broad input, EPA is fulfilling Governor Leavitt's request to reopen the comment period for the proposed rule. The EPA requests comments on all aspects of the WGA letter, particularly on whether these recommendations assure reasonable progress under the CAA and on how we should use this new information in preparing our final rule.

In addition to the letter from the WGA, we are also providing, for illustrative purposes, draft regulatory text that attempts to translate the WGA recommendations into regulatory language. The regulatory language, as drafted, would add a new section 51.309 to the regional haze regulation. By providing this translation of the WGA letter into draft regulatory text, EPA is providing the public with an example of how these recommendations could be implemented under the SIP process. The WGA believes its recommendations

will assure reasonable progress under the regional haze program. The EPA is seeking public comment on whether this translation accurately reflects the WGA recommendations, and on whether a SIP incorporating these provisions would satisfy the basic statutory requirements of section 169A as noted above.

In drafting the regulatory language, we have attempted to incorporate all of the WGA's recommendations for specific regulatory requirements into regulatory text except for the recommendation to include a ~~A~~binding commitment@ on EPA to ~~A~~fully consider@ certain national mobile source measures. While we are not expressing a position on this recommendation, we are unsure of how or whether the regulatory structure of the regional haze proposal can incorporate this provision, and we request comment on how and whether this should be done.

The WGA letter contains numerous suggestions for preamble discussions to accompany the final regional haze rule. These preamble suggestions include clarifications of the rationale for certain conclusions, explanations to clarify WGA's regulatory language suggestions, and discussions of a number of WGA's suggested policy interpretations for implementation of the final rule. At this time, the EPA has not drafted specific preamble

language in reaction to these suggestions. We do, however, request comment on the concepts and suggestions that WGA recommends that EPA include in the preamble to the final rule.

The WGA letter and the regulatory language are available for review in the docket as items VIII-G-76 and VIII-I-02, respectively. In addition, these items are on the Internet at <http://www.epa.gov/ttn/oarpg/tlsl.html>.

II. TEA-21 Legislation

In the proposed rule, we stated our intent to coordinate SIP revisions for regional haze with the schedule for SIP revisions under the new $PM_{2.5}$ standard (see 62 FR 41151). The proposed rule also required States to submit a SIP revision with basic planning provisions and commitments within 12 months, consistent with the requirements of section 169B of the CAA. For States with $PM_{2.5}$ nonattainment areas, the proposal required States to submit control strategies at the same time as $PM_{2.5}$ control strategies (62 FR 41159).

On June 9, 1998, the President signed the TEA-21. Section 4102(c)(2) of the TEA-21 revises the timing requirements for submission of SIPs for the visibility program. However, TEA-21 is consistent with the desire expressed by EPA in the notice of proposed rulemaking to

harmonize the visibility program with the PM_{2.5} program.

Section 4102(c)(2) reads as follows:

(2) For any area designated as nonattainment for the July 1997 PM_{2.5} national ambient air quality standard in accordance with the schedule set forth in this section, notwithstanding the time limit prescribed in paragraph (2) of section 169B(e) of the Clean Air Act, the Administrator shall require State implementation plan revisions referred to in such paragraph (2) to be submitted at the same time as State implementation plan revisions referred to in section 172 of the Clean Air Act implementing the revised national ambient air quality standard for fine particulate matter are required to be submitted. For any area designated as attainment or unclassifiable for such standard, the Administrator shall require the State implementation plan revisions referred to in such paragraph (2) to be submitted 1 year after the area has been so designated. The preceding provisions of this paragraph shall not preclude the implementation of the agreements and recommendations set forth in the Grand Canyon Visibility Transport Commission Report dated June 1996.

The Conference Report accompanying TEA-21 explains the provisions affecting the visibility program. The Conference Report states:

The Conferees recognize that the Regional Haze regulation has not been finalized and the Administrator of the Environmental Protection Agency (EPA) is still considering the views of various stakeholders. The Conferees agree with EPA's public statements that the schedule for the State Implementation Plan due pursuant to section 169B(e)(2) of the Clean Air Act [sic] should be harmonized with the Schedule for State Implementation Plan submissions required for PM_{2.5} ambient air quality standard promulgated in July, 1997.

As required by Congress, we intend to incorporate the deadlines contained in the TEA-21 into the final regional haze rule. The TEA-21 provision requires specific deadlines for regional haze SIP submissions within 1 year after an "area" is designated as attainment or unclassified for $PM_{2.5}$, and at the same time that $PM_{2.5}$ SIPs are due for "areas" that are designated as nonattainment for $PM_{2.5}$.

There is one potential area of concern with the TEA-21 provisions for which we seek public comment. While the deadlines and statement of intent are generally clear, the TEA-21 legislation does not address the deadlines that would apply for a regional planning effort that incorporated *both* attainment *and* nonattainment areas. While certain Class I areas may be affected only by emissions from attainment and/or unclassified areas, we do not believe that Congress intended to inhibit regional planning efforts by requiring area-by-area submittals (sometimes within a single State) when both attainment and nonattainment areas are included. We believe that this result would not be consistent with the nature of the regional haze problem, which, as noted in the preamble to the

proposed rulemaking, aims to address pollutants which can travel hundreds of miles. Additionally, we do not believe that this result would be consistent with the expressed intent of Congress to harmonize regional haze planning efforts with those for PM_{2.5}. Accordingly, we intend to incorporate an optional approach into the final rule which will allow States to first submit SIP revisions which commit to specific integrated regional planning efforts but which do not set forth control strategies. Under this approach, States committing to regional planning would have coordinated deadlines for regional haze control strategies for unclassifiable, attainment and non-attainment areas within a single planning region. We recognize that this approach could have the effect of delaying control strategy plan submittal dates for some areas, but we believe that such an option will support effective coordination between the PM_{2.5} and regional haze programs and is consistent with the statement of congressional intent. Accordingly, we request comment on this interpretation of TEA-21.

III. Where to Send Comments

Please send comments directly to Docket A-95-38 at the address previously provided and specify that they

are in response to this notice. Comments will be forwarded from the Air Docket to the appropriate EPA staff.

Date

John S. Seitz, Director
Office of Air Quality Planning
and Standards